

REMARKS

Amendments to the Claims

Claims 1 and 17 are amended, and finds support for the amendments throughout the specification, including in Paragraph [0022].

Rejections Pursuant to 35 USC § 102

The Office rejects claims 1-3, 6-13, and 16-19 as being anticipated by U.S. Patent No. 4,129,114 (the "Hiser patent").

"Under 35 U.S.C. 102, every limitation of a claim must identically appear in a single prior art reference for it to anticipate the claim." *Gechter v. Davidson*, 116 F.3d 1454 (Fed. Cir. 1997) (emphasis added). In this regard, the Hiser patent is not an anticipatory reference to the claims as amended for several reasons:

Claims 1 and 17 recite that the viewable surface has an angle of incidence and an angle of reflection which are both substantially equal as viewed by a viewer of the system. This element is not taught in the Hiser patent, primarily because the Hiser patent is concerned with disclosing a combination furnace / air conditioning system (*see e.g.*, Hiser patent, Col. 1, ll. 52-59). Further, the Hiser patent discloses that the use of his mirrored insert is because his structure requires the "fire in the firebox" to be partially set into the room (e.g., the firebox protrudes away from the firebox into the room), so that the Hiser patent fails to appreciate the angle of incidence and angle of reflectance properties as recited in claims 1 and 17.

The Office also rejects claims 1-4 and 11-14 as being anticipated by U.S. Patent No. 6,409,500 B2 to Georgantas (the "Georgantas patent"). The Georgantas patent similarly fails to disclose having mirrors so that the viewable surface has an angle of incidence and an angle of reflection which are both substantially equal as viewed by a viewer of the system. This is due primarily because the Georgantas patent is more concerned about the disclosure of a specially designed gas fireplace pipe for use in a gas fireplace having glass beads to simulate embers, but still, fails to appreciate the angle of incidence and angle of reflectance properties as recited in claims 1, 11 and 17. The Georgantas patent further fails to recite a plurality of flamelight reflective sheets as recited in claim 11.

Because both the Hiser and the Georgantas patents fail to disclose every limitation recited in the rejected claims, they likewise cannot qualify as anticipatory references to these claims and those claims which are dependant thereon (i.e., Claims 2-10, 12-16 and 18-20).

Reconsideration is respectfully requested.

Rejections Pursuant to 35 USC § 103

The Office rejects claims 5, 15 and 20 as being unpatentable over the Hiser patent in view of U.S. Patent No. 3,978,598 to Rose (the "Rose patent")¹.

In traversal, it follows that since Claim 5 is dependant upon Claim 1, and because the Office has not rejected Claim 1 under Section 103, then Claim 5 cannot be rejected under Section 103. Also, since Claim 15 is dependant upon Claim 11, and Claim 11 is not rejected under Section 103, then Claim 15 must

¹ In the 12/2/04 Office Action, the Office initially recites the Rose patent as the secondary obviating reference, and then refers to it as "Meyers" (*see* page 3 of the 12/2/04 Office Action). The Applicant presumes that this was a typographical mistake, and as such, hereby presents traversal based on the Rose patent.

similarly stand as not rejected under Section 103. Finally, since Claim 20 is dependant upon Claim 17, and Claim 17 is not rejected under Section 103, Claim 20 must similarly stand as not rejected under Section 103. As such, the Applicant cannot respond to the Office's Section 103 prior art reasoning because Claims 5, 15 and 20 must stand as not being rejected, since they are dependant upon non-rejected claims.

Reconsideration is respectfully requested.

In light of the foregoing amendments and remarks, the Applicant respectfully requests the Office to withdraw the pending objections and rejections, and allow the present application to issue. The undersigned would welcome a phone call from the Office to expedite the resolution of this application. A return postcard is attached, which the Applicant requests the Office to stamp and mail to the Applicant.

Respectfully submitted,

Date: December 21, 2004

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Enc. as stated.